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September 2, 2008

VIA EFILING AND HAND DELIVERY

The Honorable Sue L. Robinson
J. Caleb Boggs Federal Building
844 N. King Street
Room 6124
Lockbox 31
Wilmington, DE 19801

**Re: TriCor Antitrust Litigation (02-1512) (03-120) (05-340 consolidated)
(05-360 consolidated)**

Dear Judge Robinson,

I write on behalf of all Plaintiffs. The Plaintiffs wish to bring to the Court's attention that in the course of preparing their draft of the Pre-Trial Order and determining the evidence and witnesses that Plaintiffs intend to present during trial, it became apparent that further refinement of Plaintiffs' case was necessary in order to present a comprehensible case to the jury in the allotted trial days.

Plaintiffs determined that it would be difficult or impossible to present certain aspects of their sham litigation allegations to the jury in an understandable way in light of the remaining portions of the case and the constraints imposed by the trial schedule. Plaintiffs believe these allegations have substantial merit, but Plaintiffs have not included in their proposed list of witnesses any experts related to whether Abbott or Fournier had an objective basis to assert infringement against Teva or Impax in any of the litigations. Thus, Plaintiffs wish to alert the Court that they do not intend to pursue, in their case in chief, the allegations that Defendants engaged in sham litigation by unreasonably asserting that Teva and Impax infringed Defendants' patents.

The Plaintiffs, therefore, believe that the Court need not decide the Defendants' pending summary judgment motion with respect to these allegations. With respect to the pending motion, these allegations are addressed in the following responsive briefs filed by the Plaintiffs:

Teva's opposition brief, Argument III.C, pages 34-36, D.I. 622 (02-1512);
Impax's opposition brief; Arguments III.B and III.C, pages 20-32, D.I. 531 (03-120);

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Purchaser Plaintiffs' opposition, entire brief, other than the incorporation of Teva's and Impax's opposition, D.I. 411 (05-340)

Plaintiffs do intend to pursue their allegations that Defendants' litigations were shams based upon the fact that Defendants had committed inequitable conduct and/or committed Walker Process fraud with respect to one or more patents Defendants asserted in the tablet litigation in this Court.

Respectfully,

/s/ Elizabeth M. McGeever

Elizabeth M. McGeever
(I.D. #2057)

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